

REMARKS/ARGUMENTS

Claim Amendments

The Applicant has amended claims 1 and 14. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-26 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

Claim Rejections – 35 U.S.C. § 103 (a)

Claims 1-11, 14-22, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Szienski (UK Patent Application GB 2 366134A) in view of Suzuki (US 2001/0011032 A1). The Applicant has amended claims 1 and 14 to better define the intended scope of the claimed invention. The Examiner's consideration of the amended claims is respectfully requested.

The Applicant respectfully traverses the Examiner's rejections and submits the following remarks for the Examiner's favorable reconsideration. The Applicant has further amended independent claims 1 and 14 to more clearly and distinctly claim the subject matter which the Applicant considers as his invention. Claim 1 has been amended and now recites that a quality of service level provided to the communication device in the network is changed in response to the power level calculations. Support for this amendment is found on page 7, lines 19-24 and page 13, lines 10-22. The Applicant's claimed invention changes the data transfer level (i.e., the data transfer rate) according to the detected power level of the communication device.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations (MPEP 2143). In that regard, the Applicant respectfully submits that the Examiner's two references still fail to teach or suggest each and every element of the presently pending independent claims.

The present invention discloses and claims a method of managing traffic in a network. The method includes the steps of determining a current level of available power in the power supply for transmitting and receiving functions of the communication device, communicating the power level to a controller, determining a current power drain rate of the power source, detecting a need for data transfer associated with the communication device, determining a quantity of data relating to the data transfer, calculating whether the power level is sufficient to effect the transfer of the data, and signaling the controller to effect the data transfer according to the power level calculations, wherein a quality of service level provided to the communication device in the network is changed in response to the power level calculations.

The Examiner stated that Szienski fails to disclose that a quality of service provided to the communication device in the network is changed in response to the power level calculations. The Applicant agrees with this statement. However, the Examiner further stated that Suzuki discloses a quality of service provided to the communication device in the network is changed in response to the power level calculations. The Applicant respectfully disagrees with this characterization. The Examiner cites figures 2-3 and paragraphs 35-37 and 57-62 for disclosing a change in a quality of service provided to the communication device in response to the power level calculations. In these passages, Suzuki merely discloses a "binary" decision where it is determined to send the data or not send the data (i.e., put in a wait state). Thus, in Suzuki, once a specified voltage level is reached, no data is transferred.

In contrast, the Applicant's invention provides a change of quality of service level (i.e., the rate of the data transfer) in response to the power level calculations. The Applicant's invention does not provide a send/do not send decision process, but rather changes the quality of service level (i.e., rate) to allow the transfer of data in accordance to the power level remaining. Unlike Suzuki, the Applicant's invention is not dependent upon a preset voltage level, but instead adjusts the quality of service level (e.g., totally or partially sending data and/or sending data at a low or high bit rate) according to the battery capacity.

Therefore, the Applicant respectfully submits that the step of changing a quality of service level provided to the communication device in the network in response to the power level calculations by either Szienski or Suzuki, in combination or separately, is missing as recited in claim 1. Claim 14 recites limitations analogous to claim 1 and also are not taught or suggested in Szienski or Suzuki. Claims 2-11 and 26 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Claims 15-22 and 25 depend from amended claim 14 and recite further limitations in combination with the novel elements of claim 14. Therefore, the allowance of claims 1-11, 14-22, 25, and 26 is respectfully requested.

Claims 12, 13, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Szienski in view of Suzuki and further in view of Liebenow (6,459,896). The Applicant has amended claims 1 and 14 to better define the intended scope of the claimed invention. The Examiner's consideration of the amended claims is respectfully requested.

Claims 1 and 14 have been amended and now recites that a quality of service level provided to the communication device in the network is changed in response to the power level calculations. Support for this amendment is found on page 7, lines 19-24 and page 13, lines 10-22. The Applicant's claimed invention changes the data transfer level (i.e., the data transfer rate) according to the detected power level of the communication device.

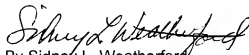
As stated above, Szienski or Suzuki, either in combination or separately, do not teach or suggest changing a quality of service level in responses to the power level calculations. The addition of Liebenow does not make up the missing elements. Claims 12 and 13 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Claims 23 and 24 depend from amended claim 14 and recite further limitations in combination with the novel elements of claim 14. Therefore, the allowance of claims 12, 13, 23, and 24 is respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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